

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TENTATIVE ORDER NO. R9-2004-0193

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
FOR
MANDATORY MINIMUM PENALTIES
AGAINST
KB HOME COSTAL INC.
FOR VIOLATIONS
OF
ORDER NO. 2001-96, NPDES NO. CAG919002
GENERAL WASTE DISCHARGE REQUIREMENTS FOR GROUNDWATER
EXTREACTION AND SIMILAR WASTE DISCHARGES FROM
CONSTRUCTION AND REMEDIATION PROJECTS TO SURFACE WATERS
WITHIN THE SAN DIEGO REGION, EXCEPT FOR SAN DIEGO BAY**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), having held a public hearing on August 11, 2004, to hear evidence and comments on the allegations contained in Complaint No. R9-2004-0116, dated April 23, 2004, and on the recommendation for administrative assessment of Civil Liability pursuant to California Water Code section 13385 in the amount of \$12,000 finds as follows:

1. KB Home Coastal Inc. discharged extracted groundwater from the Mar Lado Pump Station construction project at 401 Foussat Drive, Oceanside, California, to the San Luis Rey River. The discharge is subject to waste discharge requirements, Order No. 2001-96, *NPDES No. CAG919002, General Waste Discharge Requirements For Groundwater Extraction And Similar Waste Discharges From Construction And Remediation Projects To Surface Waters Within The San Diego Region, Except For San Diego Bay*. KB Home Coastal Inc. enrolled for regulation under these requirements on April 1, 2003 (WDID No. 9 000001033).
2. In January 2004, KB Home Coastal Inc. violated Order No. 2001-96. This violation is due to exceedances of effluent limitations for Turbidity, Total Nitrogen and Total Phosphorus as reported in the January 2004 Monthly Monitoring Report received by the Regional Board on March 16, 2004. On January 7, 2004, KB Home Coastal Inc. reported a Total Nitrogen concentration of 2.9 mg/l and a Total Phosphorus concentration of 0.29 mg/l, both more than 40% greater than the Average Monthly and Instantaneous Maximum effluent limitations established in Order No. 2001-96
3. Water Code Section 13385(h)(2) states that a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group I pollutant, as specified in Appendix A to

- Section 123.45 of Title 40 of the Code of Federal Regulations, by 40% or more. Total Nitrogen and Total Phosphorus are Group I pollutants.
4. Consideration of the factors prescribed in California Water Code Section 13385(e) based upon information available to the Regional Board supports assessment of civil liability pursuant to Water Code Section 13385(i) in the amount of \$12,000. Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. Under Water Code Section 13385(h) the amount of mandatory minimum penalty that must be assessed is \$12,000 for the serious violations.
 5. The Regional Board incurred costs totaling \$2,531 to prosecute this enforcement action; the costs include investigation, preparation of enforcement documents, and communication with the discharger and interested parties regarding the enforcement action.
 6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that pursuant to section 13385 of the California Water Code, civil liability is imposed on KB Home Coastal Inc. in the amount of twelve thousand dollars (\$12,000) and that the rationale for the assessment contained in Complaint No. R9-2004-0116 is hereby incorporated into this Order.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on June 10, 2004.

 tentative
JOHN H. ROBERTUS
Executive Officer